



General Assembly

Substitute Bill No. 554

February Session, 2006

* SB00554INS__031606__ *

AN ACT MAKING REVISIONS TO THE INSURANCE STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 38a-19 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2006*):

4 (a) Any person or insurer aggrieved by any order or decision of the
5 commissioner made without a hearing may, not later than thirty days
6 after notice of the order to the person or insurer, make written request
7 to the commissioner for a hearing on the order or decision. The
8 commissioner shall hear such party or parties not later than [twenty]
9 thirty days after receipt of such request and shall give not less than ten
10 days' written notice of the time and place of the hearing. Not later than
11 [fifteen] forty-five days after such hearing, the commissioner shall
12 affirm, reverse or modify his previous order or decision, specifying his
13 reasons therefor. Pending such hearing and decision on such hearing
14 the commissioner may suspend or postpone the effective date of his
15 previous order or decision.

16 Sec. 2. Section 38a-102d of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2006*):

18 (a) In addition to investments in common stock, preferred stock,
19 debt obligations and other securities permitted under sections 38a-102

20 to 38a-102h, inclusive, a domestic insurer may also: (1) Invest in
21 common stock, preferred stock, debt obligations and other securities of
22 one or more subsidiaries or affiliates, amounts which do not exceed the
23 lesser of ten per cent of such insurer's assets or fifty per cent of such
24 insurer's surplus as regards policyholders, provided after such
25 investments, the insurer's surplus as regards policyholders will be
26 reasonable in relation to the insurer's outstanding liabilities and
27 adequate to its financial needs. In calculating the amount of such
28 investments, investments in domestic or foreign insurance subsidiaries
29 or affiliates shall be excluded, and there shall be included: (A) Total net
30 moneys or other consideration expended and obligations assumed in
31 the acquisition or formation of a subsidiary or affiliate, including all
32 organizational expenses and contributions to capital and surplus of
33 such subsidiary or affiliate whether or not represented by the purchase
34 of capital stock or issuance of other securities, and (B) all amounts
35 expended in acquiring additional common stock, preferred stock, debt
36 obligations and other securities and all contributions to the capital and
37 surplus, of a subsidiary or affiliate subsequent to its acquisition or
38 formation; (2) invest any amount in common stock, preferred stock,
39 debt obligations and other securities of one or more subsidiaries or
40 affiliates engaged or organized to engage exclusively in the ownership
41 and management of assets authorized as investments for the insurer,
42 provided each such subsidiary or affiliate agrees to limit its
43 investments in any asset so that such investments will not cause the
44 amount of the total investment of the insurer to exceed any of the
45 investment limitations specified in subdivision (1) of this subsection or
46 in sections 38a-102 to 38a-102h, inclusive, applicable to the insurer. For
47 purposes of this subdivision, "the total investment of the insurer"
48 includes: (A) Any direct investment by the insurer in an asset, and (B)
49 the insurer's proportionate share of any investment in an asset by any
50 subsidiary or affiliate of the insurer, which shall be calculated by
51 multiplying the amount of the subsidiary's or affiliate's investment by
52 the percentage of the ownership of such subsidiary or affiliate; and (3)
53 with the approval of the commissioner, invest any greater amount in
54 common stock, preferred stock, debt obligations or other securities of

55 one or more subsidiaries or affiliates, provided after such investment
56 the insurer's surplus as regards policyholders will be reasonable in
57 relation to the insurer's outstanding liabilities and adequate to its
58 financial needs.

59 (b) In determining the financial condition of an insurance company,
60 its investments in subsidiaries or affiliates shall be valued in
61 accordance with any applicable valuation method approved by the
62 commissioner and consistent with procedures promulgated by the
63 National Association of Insurance Commissioners.

64 (c) With respect to the activities conducted by a domestic insurer's
65 subsidiaries, the commissioner shall have the power to: (1) Order said
66 company to curtail the conduct of any activity if he finds, after notice
67 and opportunity to be heard, that such activity is not lawful or is
68 against public policy or that the continuation of such activity is
69 materially adverse to the interests of the insurer's policyholders; and
70 (2) require separate books, accounts and records for such classes of
71 activities of the insurance company subsidiary as he shall determine,
72 which books, accounts and records shall be so maintained as to
73 disclose clearly and accurately the nature and details of such activities.
74 The commissioner may determine that an activity is materially adverse
75 to policyholders if he finds that subsidiaries are being used to avoid
76 the quantitative limitations directly applicable to insurers under
77 section 38a-102c.

78 Sec. 3. Subdivision (2) of subsection (a) of section 38a-226c of the
79 2006 supplement to the general statutes is repealed and the following
80 is substituted in lieu thereof (*Effective October 1, 2006*):

81 (2) Each utilization review company shall maintain and make
82 available a written description of the appeal procedure by which either
83 the enrollee or the provider of record may seek review of
84 determinations not to certify an admission, service, procedure or
85 extension of stay. The procedures for appeals shall include the
86 following:

87 (A) Each utilization review company shall notify in writing the
88 enrollee and provider of record of its determination on the appeal as
89 soon as practical, but in no case later than thirty days after receiving
90 the required documentation on the appeal.

91 (B) On appeal, all determinations not to certify an admission,
92 service, procedure or extension of stay shall be made by a licensed
93 practitioner of the [medical] healing arts.

94 Sec. 4. Subsection (d) of section 38a-478n of the 2006 supplement to
95 the general statutes is repealed and the following is substituted in lieu
96 thereof (*Effective from passage*):

97 (d) (1) Not later than five business days after receiving a written
98 request from the commissioner, enrollee or any provider acting on
99 behalf of an enrollee with the enrollee's consent, a managed care
100 organization or health insurer whose enrollee is the subject of an
101 appeal shall provide to the commissioner, enrollee or any provider
102 acting on behalf of an enrollee with the enrollee's consent, written
103 verification of whether the enrollee's plan is fully insured, self-funded,
104 or otherwise funded. If the plan is a fully insured plan or a self-insured
105 governmental plan, the managed care organization or health insurer
106 shall send: (A) Written certification to the commissioner or reviewing
107 entity, as determined by the commissioner, that the benefit or service
108 subject to the appeal is a covered benefit or service; (B) a copy of the
109 entire policy or contract between the enrollee and the managed care
110 organization or health insurer, except that with respect to a self-
111 insured governmental plan, (i) the managed care organization shall
112 notify the plan sponsor, and (ii) the plan sponsor shall send, or require
113 the managed care organization to send, such copy; or (C) written
114 certification that the policy or contract is accessible to the review entity
115 electronically and clear and simple instructions on how to
116 electronically access the policy or contract.

117 (2) Failure of the managed care organization or health insurer to
118 provide information or notify the plan sponsor in accordance with

119 subdivision (1) of this subsection within said five-business-day period
 120 or before the expiration of the thirty-day period for appeals set forth in
 121 subdivision (1) of subsection (b) of this section, whichever is later as
 122 determined by the commissioner, shall (A) create a presumption on the
 123 review entity, solely for purposes of accepting an appeal and
 124 conducting the review pursuant to subdivision (4) of subsection (b) of
 125 this section, that the benefit or service is a covered benefit under the
 126 applicable policy or contract, except that such presumption shall not be
 127 construed as creating or authorizing benefits or services in excess of
 128 those that are provided for in the enrollee's policy or contract, and (B)
 129 entitle the commissioner to require the managed care organization or
 130 health insurer from whom the enrollee is appealing a medical necessity
 131 determination to reimburse the department for the expenses related to
 132 the appeal, including, but not limited to, expenses incurred by the
 133 review entity.

134 Sec. 5. Subsection (a) of section 38a-478s of the 2006 supplement to
 135 the general statutes is repealed and the following is substituted in lieu
 136 thereof (*Effective from passage*):

137 (a) Nothing in sections 38a-478 to 38a-478o, inclusive, as amended,
 138 shall be construed to apply to the arrangements of managed care
 139 organizations offered to individuals covered under self-insured [health
 140 plans] employee welfare benefit plans established pursuant to the
 141 federal Employee Retirement Income Security Act of 1974.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	38a-19(a)
Sec. 2	<i>October 1, 2006</i>	38a-102d
Sec. 3	<i>October 1, 2006</i>	38a-226c(a)(2)
Sec. 4	<i>from passage</i>	38a-478n(d)
Sec. 5	<i>from passage</i>	38a-478s(a)

INS *Joint Favorable Subst.*